

PART 917—KENTUCKY

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AUTHORITY: 30 U.S.C. 1201 *et seq.***§ 917.1 Scope.**

This part contains all rules applicable only within Kentucky that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 21434, May 18, 1982]

§ 917.10 State regulatory program approval.

The Kentucky State program as re-submitted on December 30, 1981, and amended and clarified on February 22, 1982, was conditionally approved, effective May 18, 1982. Beginning on that date, the Kentucky Department for Natural Resources and Environmental Protection was deemed the regulatory authority in Kentucky for surface coal mining and reclamation operations and for coal exploration operations on non-Federal and non-Indian lands. Copies of the approved program are available for review at:

(a) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) Department for Surface Mining Reclamation and Enforcement, Number 2, Hudson Hollow Complex, Frankfort, Kentucky 40601.

[48 FR 251, Jan. 4, 1983, as amended at 59 FR 17929, Apr. 15, 1994]

§ 917.11 Conditions of State regulatory program approval.

The approval of the Kentucky State program is subject to the state revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, to the regulations, to the program narrative, or by means of a legal opinion. This section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a)–(p) [Reserved]

[47 FR 21434, May 18, 1982, as amended at 49 FR 33247, Aug. 22, 1984; 49 FR 37587, Sept. 25, 1984; 50 FR 8610, Mar. 4 1985; 50 FR 23003, May 30, 1985]

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

(a) The Director does not approve the following provisions of the proposed program amendment concerning permit renewals that Kentucky submitted on April 23, 1998:

(1) The phrase “* * * if a permit has expired or * * *” in KRS 350.060(16).

(2) The following sentence in KRS 350.060(16): “Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.”

(b) Subsections (2) through (6) of the amendment submitted as House Bill 599 on May 9, 2000, are hereby not approved, effective June 20, 2001.

(c) The amendment submitted by letter dated April 12, 2002, proposing a new section of the Kentucky Revised Statutes at Chapter 350 and referenced as Kentucky House Bill 405, is hereby not approved, effective November 20, 2002.

(d) The phrase “* * * coal mining activities and * * *” in KRS 350.445(3)(g) is not approved.

(e) The exemption from the engineer inspection requirements of subsection 9 for an impoundment with no embankment structure, that is completely incised, or is created by a depression left by backfilling and grading, that is not

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a sedimentation pond or coal mine waste impoundment and is not otherwise intended to facilitate active mining at section 1(9)(c) at 405 KAR 16/18:100 is not approved. The exemption from examination for an impoundment with no embankment structure, that is completely incised or created by a depression left by backfilling and grading but not meeting MSHA requirements at 30 CFR 77.216 or not meeting the Class B and C classifications at section 1(10)(b) is not approved to the extent that it is not implemented and managed in accordance with the provisions of OSM Directive TSR-2.

(f) The changes to Kentucky's Notice of Assessment of Civil Penalties and Penalty Assessment Conference Officer's Report that specify that prepayment of a proposed assessment or penalty is no longer required are not approved.

[65 FR 29953, May 10, 2000, as amended at 66 FR 33023, June 20, 2001; 67 FR 70009, Nov. 20, 2002; 68 FR 2199, Jan. 16, 2003; 68 FR 42274, July 17, 2003; 71 FR 54589, Sept. 18, 2006]

§917.13 State statutory and regulatory provisions set aside.

(a) The following provision of Kentucky Revised Statute at KRS 350.060(22) is inconsistent with section 701(28) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside effective December 1, 1985:

30 CFR Ch. VII (7-1-10 Edition)

“(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.”

(b) Reserved]

(c) The following portions of the Kentucky Revised Statute at KRS 350.060(16) are inconsistent with section 506 of SMCRA and less effective than 30 CFR 843.11 and are set aside effective September 6, 2000:

The specific wording is the phrase “if a permit has expired or . . .” and the following sentence:

Upon the submittal of a permit renewal application, the operator or permittee shall be deemed to have timely filed the permit renewal application and shall be entitled to continue, under the terms of the expired permit, the surface coal mining operation, pending the issuance of the permit renewal.

[50 FR 47728, Nov. 20, 1985, as amended at 65 FR 53911, Sept. 6, 2000]

§917.15 Approval of Kentucky regulatory program amendments.

(a) The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

Original amendment submission date	Date of final publication	Citation/description
May 28, 1982	January 4, 1983	405 KAR 1:005 § 6; 3:005 § 6; 7:020 § 1(11), (70), (117); 7:030 § 1; 7:040 § 5(1), 10(2), (7); 7:090 § 4(1), (6); § 6; 7:095, 8:010 § 6(1), (2), 13(1), 20(5), 21(2)(a)(4), (b)(1), 22(1), (2)(a), (a)(2), (2)(c)(1), (4), (5), (6); 8:020 § 2(2)(h); 8:030 § 23(4); 12:010 § 3(5)(a), (b); 16:140 § 2(1)(d); 18:140 § 2(1)(d); 24:020 § 3(5), (7), 4(6); 24:030 § 4(4), 8(7), 9.
May 28, 1982	May 13, 1983	KRS 151.250(3); 350.010, .035, .062(9), .093 § 2, .425, .990; 405 KAR 16:020 § 4.
January 11, 1983	May 20, 1983	405 KAR 7:020 § 1(13), (27), (34), (57); 12:010 § 6; 16:060 §§ 1(3), 9(2), 11(1), .090 §§ 2, 5(5), .110 § 2(2), .130 § 2(2), .220 § 4; 18:060 §§ 7(3), 9(1), (3), .090 §§ 2, 5(5), .110 2(2), .130 § 2(2), .230 § 4; 24:030 § 3.
February 1, 1983	October 12, 1983	Technical Reclamation Memorandum #9.
October 31, 1983	November 25, 1983	405 KAR 7:020E, .030E.
January 10, 1984	April 13, 1984	“Kentucky's Plan for Transition to Primacy”.
May 1, 1984	August 22, 1984	KRS 350.010, .032, .093(2), .250(1), (3), (4); 355.060(5)(g).
October 31, 1983	September 25, 1984	405 KAR 1:030, .040, .050; 7:020, .030, .090; 8:030, .040; 16:060, .090, .140; 18:090, .140.
October 31, 1983	October 3, 1984	405 KAR 8:050 § 2; 16:190; 18:190.
October 12, 1984	March 4, 1985	405 KAR 7:020 § 1(87), (118), .030 § 3(1)(e).
August 3, 1984	May 30, 1985	KRS Chapter 350, .032, .060, .135, .990; 405 KAR 16:020.
August 29, 1985	November 20, 1985	Paragraph D of “Field Enforcement Procedures” in §II of the State program plan; 405 KAR 7:090 §§ 11(2)(a), 12(3); 24:030 defining “substantial legal and financial commitments”.